

and usable by individuals with handicaps. The definitions, requirements, and standards of the Architectural Barriers Act (42 U.S.C. 4151–4157), as established in 41 CFR 101–19.600 to 101–19.607, apply to buildings covered by this section.

§§ 1214.152—1214.159 [Reserved]

§ 1214.160 Communications.

(a) The agency shall take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public.

(1) The agency shall furnish appropriate auxiliary aids where necessary to afford an individual with handicaps an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the agency.

(i) In determining what type of auxiliary aid will be provided, the agency shall give primary consideration to the requests of the individual with handicaps.

(ii) The agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature.

(2) Where the agency communicates with applicants and beneficiaries by telephone, telecommunication devices for deaf persons (TDD's) or equally effective telecommunication systems shall be used to communicate with persons with impaired hearing.

(b) The agency shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.

(c) The agency shall provide a sign at a primary entrance to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be displayed at each primary entrance to each accessible facility.

(d) This section does not require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In

those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with § 1214.160 would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head or his or her designee after considering all agency resources available for use in the funding and operation of the conducted program or activity and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this section would result in such alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, individuals with handicaps receive the benefits and services of the program or activity.

§§ 1214.161—1214.169 [Reserved]

§ 1214.170 Compliance procedures.

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of handicap in programs and activities conducted by the agency.

(b) The agency shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by the Equal Employment Opportunity Commission in 29 CFR part 1613 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(c) Responsibility for implementation and operation of this section shall be vested in the Director, Equal Opportunity Staff.

PART 1215—PROCEDURES FOR DISCLOSURE OF RECORDS UNDER THE FREEDOM OF INFORMATION ACT

Sec.

1215.1 Purpose.

1215.2 Definitions.

1215.3 Availability of records.

1215.4 Location of records.

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- 1215.5 Record request and response procedures.
- 1215.6 Time limits and extensions.
- 1215.7 Schedule of fees.
- 1215.8 Business information.
- 1215.9 Appeal procedures.
- 1215.10 Records which may be exempt from disclosure.

APPENDIX 1(A) TO PART 1215—FREEDOM OF INFORMATION ACT REQUEST LETTER (SAMPLE)

APPENDIX 1(B) TO PART 1215—FREEDOM OF INFORMATION ACT APPEAL LETTER (SAMPLE)

AUTHORITY: Pub. L. 93-113, 87 Stat. 411 (42 U.S.C. 4951, et seq.); 42 U.S.C. 5042 (13); and 5 U.S.C. 552.

SOURCE: 55 FR 20153, May 15, 1990.

§ 1215.1 Purpose.

The purpose of this part is to prescribe rules for the inspection and copying of opinions, policy statements, manuals, instructions, and other records of ACTION pursuant to the Freedom of Information Act (5 U.S.C. 552). Information customarily furnished to the public in the regular course of ACTION's official business may continue to be furnished to the public without complying with this part, provided that the furnishing of such information would not violate the Privacy Act of 1974 (5 U.S.C. 552a). Rules for the disclosure by ACTION of records protected by the Privacy Act are set forth at 45 CFR part 1224.

§ 1215.2 Definitions.

As used in the part, the following definitions shall apply:

- (a) *The Act* means the Freedom of Information Act (5 U.S.C. 552).
- (b) *The Agency* means ACTION.
- (c) *Records* include all books, papers, maps, photographs or other documentary material, or copies thereof, regardless of physical form or characteristics, made or received by ACTION and preserved as evidence of its organization, functions, policies, decisions, procedures, operations or other activities; but do not include books, magazines, or other materials not produced by ACTION and acquired solely for reference purposes.
- (d) *Search* means time spent locating records responsive to a request, including page-by-page or line-by-line identification of responsive material within a record.

(e) *Review* means the process of examining records located in response to a request to determine whether any record or portion of a record is permitted to be withheld. It also includes processing records for disclosure (*i.e.*, excising portions not subject to disclosure under the Act and otherwise preparing them for release). Review does not include time spent resolving legal or policy issues regarding the application of exemptions under the Act.

(f) *Commercial use request* means a request from, or on behalf of, a person who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. The use to which a requester will put the records sought will be considered in determining whether the request is a commercial use request.

(g) *Educational institution* means a preschool, a public or private elementary or secondary school, an institution of undergraduate or graduate higher education, an institution of professional education, or an institution of vocational education, which operates a program or programs of scholarly research.

(h) *Non-commercial scientific institution* means an institution that is not operated on a for-profit basis and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(i) *Representative of the news media* means any person actively gathering news for an entity that is organized and operated to publish or broadcast information that is about current events or that would be of current interest to the public. Examples of news media entities include television and radio stations broadcasting to the public at large, and publishers of periodicals (but only those publishers who qualify as disseminators of "news") who make their products available for purchase or subscription by the general public. These examples are not intended to be all-inclusive. Moreover, as new methods of news dissemination evolve (*e.g.*, electronic dissemination

of newspapers through telecommunications services), such alternative media would be included in this category. “Freelance” journalists may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it. A publication contract would be the clearest proof, but the Agency may also look to the past publication record of a requester in making this determination.

(j) *Business information* means trade secrets or other commercial or financial information.

(k) *Business submitter* means any commercial entity which provides business information to ACTION and which has a proprietary interest in such information.

(l) *Appeal* means the appeal by a requester of an adverse Agency determination on his/her request, or on his/her application for a waiver of fees, as described in 5 U.S.C. 552(a)(6)(A)(ii).

§ 1215.3 Availability of records.

(a) All publications and other documents heretofore provided by ACTION to the public in the normal course of Agency business will continue to be made available upon request to the Agency.

(b) The Agency will promptly make available to any member of the public who requests them, the following Agency records:

(1) Final opinions and orders made in the adjudication of cases;

(2) Statements of policy and interpretation adopted by an office which have not been published in the FEDERAL REGISTER; and

(3) Administrative staff manuals and instructions to the staff which affect the public.

(c) A current index, which shall be updated at least quarterly, of the foregoing materials, is maintained by the Agency, and copies of same or any portion thereof will be furnished upon request. The Agency deems further publication of such index in the FEDERAL REGISTER unnecessary and impractical.

(d) To the extent necessary to prevent a clearly unwarranted invasion of personal privacy, the Agency may de-

lete identifying details from materials furnished under this section.

(e) Brochures, leaflets, and other similar published materials shall be furnished to the public on request to the extent they are available. Copies of any such materials which are out of print shall be furnished at the cost of duplication, provided, however, that, in the event no copy exists, the Agency shall not be responsible for reprinting the document.

(f) All records of ACTION which are requested by a member of the public in accordance with the procedures established in this part shall be timely made available for inspection or copying, at the Agency’s option, except to the extent that the Agency determines such records are exempt from disclosure under the Act.

(g) The Agency will not be required to create new records, compile lists of selected items from its files, or provide a requester with statistical or other data (unless such data have been compiled previously and are available in the form of a record, in which event such data shall be made available as provided in this part).

§ 1215.4 Location of records.

(a) The Agency maintains a central records room at its headquarters, located at 1100 Vermont Avenue NW., Washington, DC 20525. The specific location of the central records room may change from time to time, but may be ascertained by inquiry to the receptionist in the Office of the Director, ACTION.

(b) The Agency maintains regional offices in the following locations:

Region I—Boston, Massachusetts (Connecticut, Maine, Massachusetts, New Hampshire, Vermont and Rhode Island)

Region II—New York, New York (New Jersey, New York, Puerto Rico and Virgin Islands)

Region III—Philadelphia, Pennsylvania (Delaware, District of Columbia, Kentucky, Maryland, Ohio, Pennsylvania, Virginia and West Virginia)

Region IV—Atlanta, Georgia (Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina and Tennessee)

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Region V—Chicago, Illinois (Illinois, Indiana, Iowa, Michigan, Minnesota and Wisconsin)

Region VI—Dallas, Texas (Arkansas, Kansas, Louisiana, Missouri, New Mexico, Oklahoma and Texas)

Region VIII—Denver, Colorado (Colorado, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming)

Region IX—San Francisco, California (American Samoa, Arizona, California, Guam, Hawaii and Nevada)

Region X—Seattle, Washington (Alaska, Idaho, Oregon and Washington)

ACTION also maintains offices in most States, usually in the State capital.

These field offices are not responsible for maintaining indexes, reading rooms, or records or documents other than those created and maintained in the normal course of the official business of such offices.

§ 1215.5 Record request and response procedures.

(a) *How made and addressed.* Requests under the Act for access to ACTION records must be in writing, and must either be mailed or hand-delivered to the FOIA Officer, 1100 Vermont Avenue NW., Washington, DC 20525. All such requests, and the envelopes in which they are sent, must be plainly marked "FOIA Request". Hand-delivered requests will be received between 8:30 a.m. and 5 p.m., Monday through Friday, except on official holidays.

(b) *Agreement to pay fees.* The filing of a request under this subpart shall be deemed to constitute an agreement by the requester to pay all applicable fees under § 1215.7 of this part, up to \$25, unless a waiver of fees is sought in the request letter. When filing a request, a requester may agree to pay a greater amount, if applicable.

(c) *Request must adequately describe the records sought.* A request must describe the records sought in sufficient detail to enable Agency personnel to locate the records with reasonable effort. A request shall be regarded as fulfilling this requirement if it enables the Agency to identify responsive documents without unreasonable burden to or disruption of Agency operations. Persons wishing to inspect or secure copies of records should describe and

identify such records as fully and as accurately as possible. Among the kinds of identifying information which a requester may provide are the following:

(1) The unit or program of the Agency which may have produced or may otherwise have custody of the record, e.g., VISTA (Volunteers In Service To America), RSVP (Retired Senior Volunteer Program), FGP (Foster Grandparent Program);

(2) The specific event or action, if any, to which the record pertains;

(3) The date of the record, or the time period to which it refers or relates;

(4) The type of record (e.g., application, contract, grant or report);

(5) The name(s) of Agency personnel who may have prepared or been referenced in the record; and

(6) Citation to newspapers or other publications which refer to the record.

(d) *Initial processing.* Upon receipt of a request for Agency records, the FOIA Officer will make an initial determination as to whether the request describes requested records with sufficient specificity to determine the office of the Agency having custody of any responsive records. If so, upon making such initial determination, he/she shall refer such request to the head of the custodial office. The office head shall promptly ascertain whether the description of record(s) requested is sufficient to permit a determination as to existence, identification, and location. The FOIA Officer will provide FOIA guidance and assistance to the ACTION staff.

(e) *Insufficiently identified records.* On making a determination that the description contained in the request does not sufficiently describe a requested record, the FOIA Officer shall promptly so advise the requester in writing and by telephone if possible. The FOIA Officer shall provide the requester with appropriate assistance to help the requester provide any additional information which would better identify the record.

The requester may submit an amended request providing the necessary additional identifying information. Such a request shall be deemed to have been received by the Agency on the date it receives the amended request.

(f) *Release, of record; denial and right to appeal.* Upon receipt of a request specifically identifying existing Agency records, the Agency shall, within ten working days, either grant or deny the request in whole or in part, as provided in this subpart. Any notice of denial in whole or in part shall also inform the requester of his/her right to appeal the denial, in accordance with the procedures set forth at § 1215.9 below.

If the FOIA Officer determines that a request describes a requested record sufficiently to permit its identification, he/she shall make it available unless he/she determines, after consultation with the General Counsel, as appropriate, to withhold the record as exempt from mandatory disclosure under the Act.

(g) *Form and content of notice granting a request.* The Agency shall provide written notice of a determination to grant a request. Such notice shall describe the manner in which the record will be disclosed, whether by providing a copy of the record to the requester or by making the record available to the requester for inspection at a reasonable time and place. The procedure for inspection shall not unreasonably disrupt the operations of the Agency. The Agency shall inform the requester in the notice of any fees charged in accordance with the provisions of § 1215.7 of this part.

(h) *Form and content of notice denying a request.* The Agency shall notify a requester in writing of the denial of a request in whole or in part. Such notice shall include:

(1) The name and title or position of the person responsible for the denial;

(2) A brief statement of the reason or reasons for the denial, including the exemption or exemptions under the Act on which the Agency has relied in denying the request, and a specific explanation of the manner in which the exemption or exemptions apply to each record withheld; and

(3) A statement that the denial may be appealed under § 1215.9 of this part, and a copy of that section.

§ 1215.6 Time limits and extensions.

(a) The time limits specified for the Agency's initial response in § 1215.5, and for its determination on an appeal

in § 1215.9, are mandatory, and a person requesting records shall be deemed to have exhausted his/her administrative remedies with respect to such request in the event the Agency fails to comply with the applicable time limits in accordance with this section.

(b) The time limits specified for the Agency's initial response in § 1215.5, and for its determination on an appeal in § 1215.9, may be extended by the Agency upon written notice to the requester which sets forth the reasons for such extension and the date upon which the Agency will respond to the request. Such extension may be applied at either the initial response stage or the appeal stage, or both, provided the aggregate of such extensions shall not exceed ten working days. Circumstances justifying an extension under this subpart may include the following:

(1) Time necessary to search for and collect requested records from field offices of the Agency;

(2) Time necessary to locate, collect and review voluminous records responsive to a single request; or

(3) Time necessary for consultation with another agency having an interest in the request; or among two or more offices of ACTION which have an interest in the request; or with a submitter of business information having an interest in the request.

§ 1215.7 Schedule of fees.

(a) It is the policy of ACTION to encourage the widest possible dissemination of information concerning the programs under its jurisdiction. To the extent practicable, its policy will be applied under this part so as to permit requests for inspection of copies of records to be met without substantial cost to requesters.

(b) Request processing charges will be determined by category of request, as follows:

(1) *Commercial use requests.* When a request for records is made for commercial use, charges will be assessed to cover the costs of searching for, reviewing for release, and reproducing the records sought.

(2) *Requests for educational and non-commercial scientific institutions.* When a

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request for records is made by an educational or a non-commercial scientific institution in furtherance of scholarly or scientific research, respectively, charges will be assessed to cover the cost of reproduction alone, excluding charges for reproduction of the first 100 pages.

(3) *Requests from representatives of the news media.* When a request for records in made by a representative of the news media for the purpose of news dissemination, charges will be assessed to cover the cost of reproduction alone, excluding charges for reproduction of the first 100 pages.

(4) *All other requests.* When a request for records is made by a requester who does not fit into any of the preceding categories, charges will be assessed to cover the costs of searching for and reproducing the records sought, excluding charges for the first two hours of search time and for reproduction of the first 100 pages. (However, requests from individuals for records about themselves contained in the Agency's systems of records will be treated under the fee provisions of the Privacy Act of 1974 which permit the assessment of fees for reproduction costs only, regardless of the requester's characterization of the request).

(c) Fees assessed shall provide only for recovery of the Agency's direct costs of search, review, and reproduction. Review costs shall include only the direct costs incurred during the initial examination of a record for the purposes of determining whether a record must be disclosed under this part and whether any portion of a record is exempt from disclosure under this part. Review costs shall not include any costs incurred in resolving legal or policy issues raised in the course of processing a request or an appeal under this part.

(d) When the Agency believes that a requester or group of requesters has divided one request into series of requests for the purpose of evading the assessment of fees, the Agency may treat such requests as a single request.

(e) The following charges may be assessed for copies of records provided to a requester:

(1) Copies made by photostat shall be charged at the rate of \$0.10 per page.

(2) Searches for requested records performed by clerical/administrative personnel shall be charged at the rate of \$3.00 per quarter hour.

(3) Where a search for requested records cannot be performed by clerical/administrative personnel (for example, where the tasks of identifying and compiling records responsive to a request must be performed by a skilled technician or professional), such search shall be charged at the rate of \$5.50 per quarter hour.

(4) Computer searches for requested records shall be charged at a rate commensurate with the combined cost of computer operation and operator's salary attributable to the search.

(f) In the event a request for records does not state that the requester will pay all reasonable costs, or costs up to a specified dollar amount, and the FOIA Officer determines that the anticipated assessable costs for search, review and reproduction of requested records will exceed \$25.00, or will exceed the limit specified in the request, the requester shall be promptly notified in writing and by telephone. Such notification shall state the anticipated assessable costs of search, review and reproduction of records requested. The requester shall be afforded an opportunity to amend the request to narrow the scope of the request, or, alternatively, may agree to be responsible to pay the anticipated costs. Such a request shall be deemed to have been received by the Agency upon the date of receipt of the amended request.

(g) Advance payment of assessable fees are not required from a requester unless:

(1) The Agency estimates or determines that assessable charges are likely to exceed \$250.00, and the requester has no history of payment of FOIA fees. (Where the requester has a history of prompt payment of fees, the Agency shall notify the requester of the likely cost and obtain satisfactory assurance of full payment.)

(2) A requester has previously failed to pay a FOIA fee charged in a timely fashion (*i.e.*, within 30 days of the date of the billing).

When the Agency acts under paragraph (g) (1) or (2) of this section, the administrative time limits prescribed

in subsection (a)(6) of the Act will begin to run only after the Agency has received fee payments or assurances.

(h) Interest charges on an unpaid bill may be assessed starting on the 31st day following the day on which the billing was sent. Interest will be assessed at the rate prescribed in section 3717 of title 31 U.S.C., and will accrue from the date of billing.

(i) Payment of fees shall be forwarded to the FOIA Officer by check or money order payable to "ACTION." A receipt for any fees paid will be provided upon written request.

(j) Charges may be assessed for search and review time, even if the Agency fails to locate records responsive to a request of if records located are determined to be exempt from disclosure.

(k) No fee shall be charged if the costs of routine collection and processing of the fee will equal or exceed the amount of the fee.

(l) A requester may, in the original request, or subsequently, apply for a waiver or reduction of document search, review and reproduction fees. Such application shall be in writing, and shall set forth in detail the reason(s) a fee waiver or reduction should be granted. The amount of any reduction requested shall be specified in the request. (See appendix A—Sample Request Letter.) Upon receipt of such a request, the FOIA Officer shall refer the request to the Deputy Director or to such official as the Deputy Director may designate, who shall promptly determine whether such fee waiver or reduction shall be granted.

(2) A waiver or reduction of fees shall be granted only if release of the requested information to the requester is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Agency, and is not primarily in the commercial interest of the requester. The Agency shall consider the following factors in determining whether an application for a fee waiver or reduction will be granted:

(i) Does the requested information concern the operations or activities of the Agency?

(ii) If so, will disclosure of the information be likely to contribute to pub-

lic understanding of the Agency's operations and activities?

(iii) If so, would such a contribution be significant?

(iv) Does the requester have a commercial interest that would be furthered by disclosure of the information?

(v) If so, is the magnitude of the identified commercial interest of the requester sufficiently large, in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester? In applying this criterion, the Agency will weigh the requester's commercial interest against any public interest in disclosure. Where there is a public interest in disclosure, and the public interest can fairly be regarded as being of greater magnitude than the requester's commercial interest, a fee waiver or reduction will be granted. In those instances where a news media requester, scholar, or public interest group has satisfied the "public interest" standard necessary for waiver, that, and not the requester's commercial interest, is the interest primarily served by disclosure to that requester and a waiver or reduction of fees will be granted.

(3) When a fee waiver application involving cost has been included in a request for records, the request shall not be deemed to have been received until an Agency determination is made regarding the fee waiver application. Such determination shall be made within five working days from the date any such request is received by the Agency.

(l) The Agency may use the authorities of the Debt Collection Act of 1982 (Pub. L. 97-365), including disclosure to consumer reporting agencies and the use of collection agencies, to encourage payment of delinquent fees.

§ 1215.8 Business information.

(a) Business information provided to ACTION by a business submitter shall be disclosed pursuant to a request under the Act in accordance with this section.

(b) The Agency shall promptly notify a business submitter in writing of any request for Agency records containing business information. Such written notice shall either specifically describe

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the nature of the business information requested or provide copies of the records, or portions thereof containing the business information.

(c) Through the notice required in paragraph (b) of this section, the Agency shall afford a business submitter a reasonable opportunity to object to disclosure of the information in question, and to provide the Agency with a written statement of grounds for such objection.

Such statement shall specify all grounds for withholding any information under any exemption of the Act and, in cases where it argues information should be withheld under Exemption (b)(4) of the Act, a business submitter shall state specifically why the information is a trade secret or is otherwise protected as proprietary commercial or financial information. Information provided by a business submitter pursuant to this paragraph may itself be subject to disclosure under the Act.

(d) The Agency shall consider carefully a business submitter's objections and specific grounds for nondisclosure prior to determining whether to release requested business information. Whenever the Agency decides to disclose business information over the objection of a business submitter, the Agency shall forward to the business submitter a written notice of such decision, which shall include:

(1) The name, and title or position, of the person responsible for denying the submitter's objection;

(2) A statement of the reasons for which the business submitter's objection was not sustained;

(3) A description of the business information to be disclosed; and

(4) A specific disclosure date.

Such notice of intent to disclose business information shall be mailed by the Agency not less than six working days prior to the date upon which disclosure will occur, with a copy of such notice to the requester.

(e) Whenever a requester brings suit to compel disclosure of business information, the Agency shall promptly notify the business submitter.

(f) The notice to submitter requirements of this section shall not apply if:

(1) The Agency determines that the information shall not be disclosed;

(2) The information has previously been published or otherwise lawfully been made available to the public; or

(3) Disclosure of the information is required by law (other than 5 U.S.C. 552).

§ 1215.9 Appeal procedures.

Upon receipt of a notice of denial, a requester may, within 15 calendar days from the date of receipt of such notice, appeal such adverse determination to the Deputy Director. Such appeal shall be in writing and shall specify the date upon which the notice of denial was received by the person making such appeal. (See appendix 1 (A & B)—Sample Request and Appeal Letters.) The Deputy Director shall make a determination with respect to any appeal within 20 working days after receipt of such appeal, and shall give written notice of such determination to the person making the appeal. To the extent the Deputy Director's determination on appeal upholds the original denial, the notice of such determination shall inform the person making the appeal of his/her right to seek judicial review of the Agency's denial and ruling on appeal as provided in 5 U.S.C. 552(a)(4).

§ 1215.10 Records which may be exempt from disclosure.

The following categories are examples of records maintained by ACTION which, under the provision of 5 U.S.C. 552(b), may be exempted from disclosure:

(a) Records required to be withheld under criteria established by an Executive Order in the interest of national defense or foreign policy and which are in fact properly classified pursuant to any such Executive Order. Included in this category are records required by Executive Order No. 11652, as amended, to be classified in the interest of national defense or foreign policy.

(b) Records related solely to internal personnel rules and practices. Included in this category are internal rules and regulations relating to personnel management and operations which cannot

be disclosed to the public without substantial prejudice to the effective performance of significant function of the Agency.

(c) Records specifically exempted from disclosure by statute.

(d) Information of a commercial or financial nature including trade secrets given in confidence. Included in this category are records containing commercial or financial information obtained from any person and customarily regarded as privileged and confidential by the person from whom they were obtained.

(e) Interagency or intra-agency memoranda or letters which would not be available by law to a party other than a party in litigation with the Agency. Included in this category are memoranda, letters, interagency and intra-agency communications and internal drafts, opinions and interpretations prepared by staff or consultants and records of deliberations of staff, ordinarily used in arriving at policy determinations and decisions.

(f) Personnel, medical and similar files. Included in this category are personnel and medical information files of staff, volunteer applicants, former volunteers, and volunteers, lists of names and home addresses, and other files or material containing private or personal information, the public disclosure of which would violate a pledge of confidentiality and amount to a clearly unwarranted invasion of the privacy of any person to whom the information pertains.

(g) Investigatory files. Included in this category are files compiled for the enforcement of all laws, or prepared in connection with government litigation and adjudicative proceedings, provided however, that such records shall be made available to the extent that their production will not:

- (1) Interfere with enforcement proceedings;
- (2) Deprive a person of a right to a fair trial or an impartial adjudication;
- (3) Constitute an unwarranted invasion of personal privacy;
- (4) Disclose the identity of a confidential source, and in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency

conducting a lawful security intelligence investigation, confidential information furnished by confidential source;

(5) Disclose investigative techniques and procedures; or

(6) Endanger the life or physical safety of law enforcement personnel.

Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of portions which are exempt under this section.

[55 FR 50330, Dec. 6, 1990]

APPENDIX 1(A) TO PART 1215—FREEDOM OF INFORMATION ACT REQUEST LETTER (SAMPLE)

Freedom of Information Act Officer

Name of Agency

Address of Agency

City, State, Zip Code

Re: Freedom of Information Act Request.

Dear _____:

This is a request under the Freedom of Information Act.

I request that a copy of the following documents [or documents containing the following information] be provided to me: [identify the documents or information as specifically as possible].

In order to help to determine my status to assess fees, you should know that I am (insert a suitable description of the requester and the purpose of the request).

[Sample requester descriptions:

—a representative of the news media affiliated with the _____ newspaper (magazine, television station, etc.), and this request is made as part of news gathering and not for a commercial use.

—affiliated with an educational or non-commercial scientific institution, and this request is made for a scholarly or scientific purpose and not for a commercial use.

—an individual seeking information for personal use and not for a commercial use.

—affiliated with a private corporation and am seeking information for use in the company's business.]

[Optional] I am willing to pay fees for this request up to a maximum of \$_____. If you estimate that the fees will exceed this limit, please inform me first.

[Optional] I request a waiver of all fees for this request. Disclosure of the requested information to me is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in my commercial interest. [Include a specific explanation.]

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Thank you for your consideration of this request.

Sincerely,
Name
Address
City, State, Zip Code
Telephone Number [Optional]

APPENDIX 1(B) TO PART 1215—FREEDOM OF INFORMATION ACT APPEAL LETTER (SAMPLE)

Appeal Officer
Name of Agency
Address of Agency
City, State, Zip Code

Re: Freedom of Information Act Appeal.

Dear _____:

This is an appeal under the Freedom of Information Act.

On (date), I requested documents under the Freedom of Information Act. My request was assigned the following identification number _____. On (date), I received a response to my request in a letter signed by (name of official). I appeal the denial of my request.

[Optional] The documents that were withheld must be disclosed under the FOIA because

[Optional] I appeal the decision to deny my request for a waiver of fees. I believe that I am entitled to a waiver of fees. Disclosure of the documents I requested is in the public interest because the information is likely to contribute significantly to public understanding of the operation or activities of government and is not primarily in my commercial interest. (Provide details)

[Optional] I appeal the decision to require me to pay review costs for this request. I am not seeking the documents for a commercial use. (Provide details)

[Optional] I appeal the decision to require me to pay search charges for this request. I am a reporter seeking information as part of news gathering and not for commercial use.

Thank you for your consideration of this appeal.

Sincerely,
Name
Address
City, State, Zip Code
Telephone Number [Optional]

(42 U.S.C. 5042(13); 5 U.S.C. 552)

PART 1216—NONDISPLACEMENT OF EMPLOYED WORKERS AND NONIMPAIRMENT OF CONTRACTS FOR SERVICE

Sec.

1216.1-1 Purpose.

1216.1-2 Applicability of this part.

1216.1-3 Policy.

1216.1-4 Exceptions.

AUTHORITY: Secs. 402(12), 404(a), 420 of Pub. L. 93-113, 87 Stat. 394, 408, 414.

SOURCE: 40 FR 16209, Apr. 10, 1975, unless otherwise noted.

§ 1216.1-1 Purpose.

This part establishes rules to assure that the services of volunteers are limited to activities which would not otherwise be performed by employed workers and which will not supplant the hiring of, or result in the displacement of, employed workers or impair existing contracts for service. It implements section 404(a) of the Domestic Volunteer Service Act of 1973, Pub. L. 93-113 (the "Act").

§ 1216.1-2 Applicability of this part.

(a) All full-time and part-time volunteers assigned, referred or serving pursuant to grants, contracts, or agreements made pursuant to the Act.

(b) All agencies and organizations to which the volunteers in paragraph (a) of this section are assigned, referred or provide services.

§ 1216.1-3 Policy.

(a) Volunteers enrolled or participating in programs referred to in paragraphs (a) and (b) of § 1216.1-2 may not perform any services or duties or engage in activities which would otherwise be performed by an employed worker as part of his assigned duties as an employee.

(b) Volunteer referred to in paragraph (a) of this section may not perform any services or duties or engage in activities which will supplant the hiring of employed workers. This prohibition is violated if, prior to engaging a volunteer, an agency or organization referred to in § 1216.1-2(c) had intended to hire a person to undertake all or a substantial part of the services, duties, or other activities to be provided by the volunteer.

(c) Volunteers referred to in paragraph (a) of this section may not perform any services or duties or engage in activities which result in the displacement of employed workers. Such volunteers may not perform services or duties which have been performed by or were assigned to, any of the following: